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Supreme Court, U.S.
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No. 97-581

In The
SUPREME COURT OF THE UNITED STATES
October Term 1997

PENNSYLVANIA BOARD OF PROBATION AND PAROLE,

Petitioner,

v.

KEITH M. SCOTT,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA

BRIEF OF OHIO, ARIZONA, ARKANSAS, CALIFORNIA, DELAWARE, DISTRICT OF COLUMBIA, HAWAII, IDAHO, KANSAS, KENTUCKY, LOUISIANA, MASSACHUSETTS, MICHIGAN, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OKLAHOMA, PENNSYLVANIA AND VERMONT AS AMICI CURIAE IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Whether the exclusionary rule applies to evidence introduced at a parole revocation proceeding, and if not, whether the investigator's knowledge of the status of the parolee at the time of the search warrants an exception to this position?

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STATEMENT OF *AMICI* INTEREST

Amicus State of Ohio and 21 other *amici* States write to urge the Court to grant the petition of the Commonwealth of Pennsylvania in this case.

At stake is the applicability of the exclusionary rule to parole revocation proceedings. In applying this principle outside the context of a criminal proceeding and in excluding pertinent evidence of a significant parole violation, the Supreme Court of Pennsylvania has erected a novel principle of constitutional law, one that is not in keeping with precedent from this Court, exacerbates a growing conflict among the lower courts, and unnecessarily intrudes on the sensitive administration of the States' parole programs.

The *amici* States have a considerable interest in the proper operation of their parole systems. The availability of parole provides a useful tool for rehabilitating certain offenders and for preserving sufficient prison space for those others who for one reason or another continue to pose a danger to the public. All 50 States and the federal government have some form of early-release program. And approximately three-quarters of all adult offenders participate in some form of conditional release while serving a criminal sentence. J. Gobert & N. Cohen: *The Law of Probation and Parole*, § 1.01 (1983).

Parole programs also present unique administrative challenges.

> In parole releases, like its siblings probation release and institutional rehabilitation, few certainties exist. In each case, the decision differs from the traditional mold of judicial decision-making in that the choice involves a synthesis of record facts and personal observation filtered through the experience of

> the decisionmaker and leading to a predictive judgment as to what is best both for the individual inmate and for the community. This latter conclusion requires the Board to assess whether, in light of the nature of the crime, the inmate's release will minimize the gravity of the offense, weaken the deterrent impact on others, and undermine respect for the administration of justice.

Greenholtz v. Inmates of Nebraska Penal and Correctional Complex, 442 U.S. 1, 8 (1979) (footnotes omitted).

Making these decisions more difficult still is the frequency with which they must be made. The number of offenders on probation or parole nationwide has increased by more than two-thirds since 1987, from 1,798,390 to 2,999,287. As a result, the average case load of probation officers has risen from 111 to 301 offenders, a 179% increase, while the average case load of parole officers has risen from 94 to 164, a 74% growth. Criminal Justice Institute, Inc., *The Corrections Yearbook* 68-69, 72-73 (1988); *The Corrections Yearbook* 140-42, 148 (1997).

One of the most important tools for running a responsible early release program is to monitor the offenders' adjustment to release. Only by following the convict's activities outside the prison can the caseworker ensure that the premise of early release -- that the offender no longer poses a threat to public safety -- remains warranted. As explained by a leading commentator on the topic:

> The probation or parole officer has the primary responsibility for supervision of a parolee's or probationer's rehabilitative progress. This caseworker, charged with

> monitoring the offender's performance, owes a responsibility to the public to ensure that probationers and parolees who pose a threat to public safety are not permitted to remain free absent compliance with conditions which obviate possible danger.

J. Gobert & N. Cohen, *supra* at § 8.02 (emphasis added) (footnotes omitted).

In offering this brief for the Court's consideration, the *amici* States do not take the position that the Fourth (and Fourteenth) Amendment's prohibition against "unreasonable searches and seizures" has no application to parolees. The provision of course may well apply to prisoners who receive a discretionary early release (except of course when the parolee has agreed in advance to submit to unannounced and warrantless searches as a condition of parole). *See Wyman v. Jones*, 400 U.S. 309 (1971) (permitting government to condition social welfare benefits on the waiver of Fourth Amendment rights). Our point is a different one: Even assuming that the guarantee applies to parolees, the judicially-created exclusionary rule does not bar the admission of relevant evidence in a parole revocation proceeding. The deterrent values served by the rule, as we show below, have little force in the administrative context of a parole setting.

REASONS FOR GRANTING THE WRIT

I. THE DECISION BELOW EXACERBATES A CONFLICT IN THE LOWER COURTS ON THE QUESTION PRESENTED.

The petition should be granted, as an initial matter, because the decision below adds to a growing conflict of authority on the issues presented -- (1) the general question

whether the exclusionary rule applies to parole revocation proceedings, and (2) the more specific question whether the exclusionary rule should apply when the government official conducting the search has knowledge of the parolee's status.

With regard to the general question, every federal court of appeals except three has taken a position on the issue. *See* A-7 to A-8. On one side of the conflict, eight courts of appeals have determined that the exclusionary rule does not generally apply to such proceedings. *See United States v. Montez*, 952 F.2d 854 (5th Cir. 1992); *United States v. Finney*, 897 F.2d 1047 (10th Cir. 1990); *United States v. Bazzano*, 712 F.2d 826 (3d Cir. 1983), *cert. denied*, 465 U.S. 1078 (1984); *United States v. Rea*, 678 F.2d 382 (2d Cir. 1982); *United States v. Frederickson*, 581 F.2d 711 (8th Cir. 1978); *United States v. Winsett*, 518 F.2d 51 (9th Cir. 1975); *United States v. Farmer*, 512 F.2d 160 (6th Cir.), *cert. denied*, 423 U.S. 987 (1975); *United States v. Hill*, 447 F.2d 817 (7th Cir. 1971). On the other side of the conflict, just one court of appeals has held that the exclusionary rule generally applies to parole revocation proceedings. *See United States v. Workman*, 585 F.2d 1205 (4th Cir. 1978).

At the State level, our research reveals that 32 jurisdictions have taken a position on this threshold question. *See* A-1 to A-6. On one side, 29 States have held that the rule generally does not apply to parole revocation proceedings. *See* A-1 to A-5 (citing cases). Three States, in contrast, have held that the rule generally does apply to exclude evidence of parole violations in this setting. *See Herrera v. State*, 745 S.W.2d 527 (Tex. App. 1988*); People ex rel Piccarillo v. New York State Bd. of Parole*, 397 N.E.2d 354 (N.Y. 1979); *Amiss v. State*, 219 S.E.2d 28 (Ga. App. 1975). Notably, these three states account for one-third of all probationers and parolees nationwide.

To be sure, with regard to the more specific question -- whether knowledge of the parolee's status alters the exclusionary rule calculation -- fewer courts have addressed the issue. Both the Pennsylvania Supreme Court (in the decision below) and the Second Circuit have held that the parolee's status, when known to the government official conducting the search, makes the exclusionary rule applicable in the parole setting. *See United States v. Rea*, 678 F.2d 382 (2d Cir. 1982). In addition, 18 State and federal courts, each of which has held that the exclusionary rule generally does not apply to parole hearings, have acknowledged that the outcome might be different if the investigative official knew the parolee's status. *See* A-2 to A-8 (Alabama, Arizona, Colorado, Washington, D.C., Indiana, Iowa, Louisiana, Maine, Massachusetts, North Carolina, Rhode Island, Virginia, West Virginia, Wisconsin, the Third, the Ninth, and the Tenth Circuits). None of the other courts addressing the issue has held that the parolee's status changes the outcome. *See* A-1 to A-8. And one court has held that knowledge of the parolee's status does not change matters, and thus specifically rejected the mode of analysis of the Second Circuit in *Rea* and the decision below in this action. *See Kansas v. Turner*, 891 P.2d 317 (Kan. 1995).

The breadth of this state-court and federal-court split of authority favors review. The lower federal and state courts first began addressing these issues in the early 1970s. *See In re: Martinez*, 463 P.2d 734 (Cal.), *cert. denied*, 400 U.S. 851 (1970) (exclusionary rule does not apply to parolees); *Anderson v. Commonwealth*, 470 S.E.2d 862 (Va. 1972) (exclusionary rule does not apply to parolees though the outcome might be different if the officer knew the parolee's status). In the 27 years since then, neither the general question (does the exclusionary rule apply in the parole context?) nor the specific question (does the rule apply when the investigator has

knowledge of the parolee's status?) has gone away. Little indication exists that the questions will be uniformly resolved anytime soon.

Plus, this case potentially gives the Court a chance to resolve both questions at once. Were the petition granted, respondent could prevail in this Court on either theory -- that the exclusionary rule generally applies to parole revocation hearings or at a minimum that the rule applies when the investigator knows the status of the object of the search.

We respectfully submit that this conflict of authority on the issues presented, together with the opportunity presented by this case potentially to address both issues at once, by itself warrants review now rather than later.

II. THE ISSUES RAISED BY THE PETITION ARE OF GREAT IMPORTANCE TO THE PUBLIC SAFETY AND EFFECTIVE OPERATION OF THE STATES' PAROLE SYSTEMS.

Not only does the petition present questions that have divided a large number of lower courts, but it also implicates a matter of great importance to the States. The impact of these important federal questions on the States' parole systems presents a second justification for review.

Day in and day out, parole officials face a daunting and sensitive task, one that leaves little room for the certainties of hindsight. They must decide whether and when convicted felons have become sufficiently rehabilitated to obtain early release, then they must ensure that the premise of that release -- that the parolee is not a threat to the public safety -- remains true throughout the probationary period. The citizenry pays a steep price when parole officials make miscalculations in this

area. *See generally Gronski v. State*, 700 P.2d 777, 779 (Wyo. 1985); *State ex rel. Stuzik v. Dept. of Health & Social Services*, 252 N.W.2d 660, 663 (Wis. 1977); *In Re: Martinez*, 463 P.2d 734, 740 (Cal.), *cert. denied*, 400 U.S. 851 (1970).

In order to perform this difficult task, it is exceedingly important that authorities be able to consider all relevant information. *United States ex rel. Spercing v. Fitzpatrick*, 426 F.2d 1161, 1165 (2d Cir. 1970) (Lombard, J., concurring); *United States v. Montez*, 952 F.2d 854, 859 (5th Cir. 1992); *Kain v. State*, 378 N.W.2d 900, 902 (Iowa, 1985). A constitutional interpretation that limits access to relevant information undermines parole officials' efforts to do their job.

> [T]he social consequences of imposing the exclusionary rule upon the authority can be disastrous. *Conceivably, if the improperly obtained evidence were the sole basis for parole revocation, the authority might find itself unable to act in the case of the paroled murderer whom the police improperly discovered had cached a minor armory* for future use or the parole narcotics peddler who had collected a quantity of heroin for future sale. Although we recognize of course, that such evidence would not be admissible in a court of law, we believe that an agency whose delicate duty is to decide when a convicted offender can be safely allowed to return to and remain in society is in a different posture than the court which decides his original guilt. *To blind the authority to relevant facts in this special context is to incur a risk of danger to the public which, at least as of this date, outweighs the competing considerations of a problematical gain in deterrence*. We thus conclude that at

> this time the . . . exclusionary rules are not applicable to Adult Authority proceedings.

In re: Martinez, 463 P.2d at 740 (emphasis added).

Commentators have come to a similar conclusion in considering the issue.

> Furthermore, *society needs to be protected by preventing the commission of additional offenses*. A recent Illinois decision noted:
>
> > [a] court sentencing an offender to probation takes a calculated risk that the offender's rehabilitation will progress better and that society will be adequately protected by the offender's return to the community under supervision.
>
> Obviously, the dangers inherent in this "calculated risk" fall primarily upon the public. *When the probationer has in fact violated the conditions of his probation, the danger to society is no longer a possibility but a certainty*. Thus, where verified factual information has shown the court's confidence to be misplaced, such evidence should not be excluded. Rather, the evidence should be admitted so that immediate steps can be taken to protect the public from the commission of additional offenses.

Note, *The Exclusionary Rule and Probation Revocation Proceedings*, 11 Val. U.L. Rev. 149, 156 (1976) (emphasis

added) (footnotes omitted) (quoting *People v. Dowery*, 312 N.E.2d 682, 685 (Ill. App. 1974)).

The sheer number of cases in this area, *see infra*, also points to the magnitude of this federal question. So too does the number of parolees affected by the issue. As of January 1, 1997, the States had nearly three million individuals on probation or parole. *Corrections Yearbook* 142 (1997). In the end, whether one looks at the impact of this issue through the lens of public safety, the frequency with which the issue arises or the number of parolees it affects, all illustrate the overwhelming significance of the federal question.

III. THE PENNSYLVANIA SUPREME COURT ERRED IN APPLYING THE EXCLUSIONARY RULE TO PAROLE REVOCATION PROCEEDINGS.

The lower court also erred in resolving the federal issue. This, too, favors review.

The Court has never held that the exclusionary rule applies to parole revocation proceedings, whether the offiicer knows the status of the parolee or not. Nor is there anything in the Court's opinions that supports such a wide-ranging expansion of *Mapp v. Ohio*, 367 U.S. 643 (1961). Quite to the contrary, what the Court has said on this score points in an opposite direction. In *Morrisey v. Brewer*, 408 U.S. 471, 489 (1972), the Court came close to endorsing the very distinction Pennsylvania has advanced in this case by emphasizing the administrative, non-adversarial nature of a parole revocation hearing:

> We emphasize there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry,

> *the process should be flexible enough to consider evidence . . . that would not be admissible in any adversary criminal trial.*

(Emphasis added). The decision below is equally inconsistent with similar observations in *Griffin v. Wisconsin*, 483 U.S. 868, 873-874 (1987) ("A state's operation of a probation system ... presents 'special needs' beyond normal law enforcement that may justify departures from the usual . . . requirements."). *See also Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

The Court also previously has held that the exclusionary rule does not apply to administrative proceedings, a view that further undermines the Pennsylvania Supreme Court's decision. In *Immigration and Naturalization Service v. Lopez-Mendoza*, 468 U.S. 1032 (1984), the Court specifically held that the rule does not apply to an administrative hearing in an area (like probation and parole) where officials must make a large number of difficult decisions in order to prevent ongoing violations of law. *Id.* at 1046 ("Applying the exlusionary rule in proceedings that are intended not to punish past transgressions but to prevent their continuances or renewal would require [decisionmakers] to close their eyes to ongoing violations of the law.") *See also Stone v. Powell*, 428 U.S. 465 (1976) (declining to apply exclusionary rule to habeas petitions).

In addition to these statements from the Court's decisions, the underlying rationale of the exclusionary rule does not extend to a parole revocation administrative hearing. The essential explanation for engrafting the exclusionary rule onto the Fourth Amendment was to deter future police misconduct. *Mapp v. Ohio*, 367 U.S. 643 (1961). Contrary to the lower court's conclusion, that concern simply does not apply whenever an officer knows the status of the parolee.

Imagine a law enforcement officer who sees what may or may not be a drug deal, knows one participant as a parolee, sees the other as a stranger, then conducts a warrantless search of both of them without probable cause. When the search produces evidence of a parole violation and it later turns out that the stranger also is a parolee, a knowledge-based approach would allow the fruits of the search to be admitted against the one but not the other. This makes little sense. *See Kansas v. Turner*, 891 P.2d 317, 323 (Kan. 1995).

The main justification for a knowledge-based limitation, moreover, is the specter that without one caseworkers could malevolently violate parolees' constitutional rights. Aside from improperly assuming that government officials will lightly breach their constitutional duties, *see Agostini v. Felton*, 66 U.S.L.W. 3253 (1997), this view contains a number of flaws. To begin with, nothing about our position indicates that the Fourth Amendment does not apply to parolees; only the exclusionary rule does not.

What is more, the continued existence of the exclusionary rule for criminal proceedings already acts as a strong deterrent against unconstitutional searches of all parolees, whether the police know their status or not. An officer that suspects criminal activity may be afoot is as apt to be interested in getting an arrest (and conviction) as a parole revocation. Only the oddest of fact patterns would tempt an officer to sacrifice a potential criminal conviction in order to obtain a parole revocation.

Finally, and perhaps most importantly, a knowledge-based approach does not in fact offer any additional deterrence against unauthorized searches. A police officer who conducts an unauthorized search violates the Constitution in one of two ways: Either the violation was inadvertent (i.e., negligent) or it

was intentional. In the event the violation was negligent, no extra deterrence follows from a knowledge-based limitation. The whole point of such a limitation is to prevent intentional, not negligent, unconstitutional searches -- in other words, to prevent just those searches that occur because the officers know the individuals to be parolees and think they can get away with the violations because the evidence may be used in a parole revocation proceeding. Under these circumstances, a knowledge-based limitation simply will not deter inadvertent violations; it will just exclude pertinent evidence.

No doubt, the same is not true for intentional violations. A knowledge-based limitation might well deter such transgressions, but it still offers no more deterrence than already exists. When police officers intentionally violate a citizen's consitutional rights, the exclusionary rule is the least of their worries. Such conduct exposes officials to individual-liability claims, internal discipline and worse. These threats provide all the deterrence anyone needs. Indeed, a contrary view posits a law enforcement officer more concerned about the potential exclusion of evidence than the potential for a money-damages action and self-advancement. While such concern for the public welfare is the hallmark of being a police officer, it hardly applies to the malevolent probation or parole officer that some lower courts have conjured in addressing this issue.

All things considered, the petition presents issues that have divided a wide number of lower courts, that implicate important federal questions, and that were incorrectly decided below.

CONCLUSION

For the foregoing reasons, we respectfully urge the Court to grant the writ.

Respectfully submitted,

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STATE AND FEDERAL DECISIONS ON THE APPLICABILITY OF THE FOURTH AMENDMENT EXCLUSIONARY RULE TO PROBATION/PAROLE REVOCATION PROCEEDINGS

I. State Decisions

A) Jurisdictions Applying the Exclusionary Rule

STATE	DECISION	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Georgia	*Amiss v. State*, 219 S.E.2d 28 (Ga. App. 1975)	152,681
New York	*Piccarillo v. New York Board of Parole*, 397 N.E.2d 354 (N.Y. 1979)	231,551
Texas	*Herrera v. State*, 745 S.W.2d 527 (Tex.App. 1988)	509,655
Total Number on Probation and Parole*		**893,870**
Percentage of All State Probationers/Parolees*		**30.9%**

B) Jurisdictions Declining to Apply the Exclusionary Rule

STATE	DECISION	NUMBER OF PERSONS ON PROBATION OR PAROLE*
**Alabama	*Ex Parte Caffie*, 516 So.2d 831 (Ala. 1987)	21,015
**Arizona	*State of Arizona v. Towle*, 609 P.2d 1097 (Ct. App. 1980)	46,499
Arkansas	*Dabney v. State*, 278 Ark. 375, 646 S.W.2d 4 (Ark. 1983)	29,176
California	*In Re: Martinez*, 463 P.2d 734 (Cal.), *cert. denied*, 400 U.S. 851 (1970)	450,935
**Colorado	*People v. Wilkerson*, 541 P.2d 896 (Colo. 1975)	30,903
Connecticut	*Payne v. Robinson*, 541 A.2d 504 (Conn.), *cert. denied*, 488 U.S. 898 (1988)	55,652
**District of Columbia	*Thompson v. United States*, 444 A.2d 972 (D.C. App. 1982)	11,829

STATE	DECISION	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Illinois	*People v. Dowery*, 62 Ill.2d 200, 340 N.E.2d 529 (Ill. 1974)	113,614
**Indiana	*Dulin v. State*, 169 Ind.App. 211, 346 N.E.2d 746 (Ind. App. 1976)	93,033
**Iowa	*Kain v. State*, 378 N.W.2d 900 (Iowa 1985)	18,035
Kansas	*State v. Turner*, 259 Kan. 864, 915 P.2d 753 (Kan. 1995)	23,042
**Louisiana	*State v. Davis*, 375 So.2d 69 (La. 1979)	50,701
**Maine	*State v. Caron*, 334 A.2d 495 (Me. 1975)	7,753
Maryland	*Chase v. State*, 522 A.2d 1348 (Md. 1975)	46,707
**Massachusetts	*Commonwealth v. Olsen*, 405 Mass. 491, 541 N.E.2d 1003 (Mass. 1989)	49,038
Michigan	*People v. Perry*, 201 Mich. App. 347, 505 N.W.2d 909 (Mich. 1993)	60,333

STATE	DECISION	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Montana	*Thorsness v. State*, 165 Mont. 321, 528 P.2d 692 (Mont. 1974)	5,354
New Hampshire	*Stone v. Shea*, 113 N.H. 174, 304 A.2d 647 (N.H. 1973)	5,480
New Jersey	*State v. Bickman*, 285 N.J. Super 365, 666 A.2d 1386 (N.J. App. 1995)	128,087
**North Carolina	*State v. Lombardo*, 295 S.E.2d 399 (N.C. 1982)	117,067
Ohio	*State ex rel. Wright v. Ohio Adult Parole Authority*, 75 Ohio St.3d 82, 661 N.E.2d 728 (Ohio 1996)	17,828
Oklahoma	*Richardson v. State*, 841 P.2d 603 (Okla. 1992)	23,521
**Rhode Island	*State v. Spratt*, 386 A.2d 1094 (R.I. 1978)	19,121
Tennessee	*Barker v. State*, 483 S.W.2d 586 (Tenn. Crim. App. 1972)	34,079

STATE	DECISION	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Utah	*Reeves v. Turner*, 28 Utah 310, 501 P.2d 1212 (Utah 1972)	12,756
**Virginia	*Anderson v. Commonwealth*, 51 Va. 437, 470 S.E.2d 862 (Va. 1972)	39,538
**West Virginia	*Hughes v. Gwinn*, 290 S.E.2d 5 (W.Va. 1981)	831
**Wisconsin	*State ex rel. Struzik v. Dept. of Health and Social Services*, 252 N.W.2d 660 (Wis. 1977)	52,463
Wyoming	*Gronski v. State*, 700 P.2d 777 (Wy. 1985)	3,755
	Total Number on Probation and Parole*	**1,568,145**
	Percentage of All State Probationers/Parolees*	**54.2%**

C) Jurisdictions That Have Not Decided Whether the Exclusionary Rule Applies

STATE	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Alaska	3,754
Delaware	16,058

STATE	NUMBER OF PERSONS ON PROBATION OR PAROLE*
Florida	138,302
Hawaii	6,833
Idaho	6,580
Kentucky	16,310
Minnesota	10,185
Mississippi	12,154
Missouri	49,492
Nebraska	15,220
Nevada	12,976
New Mexico	9,262
North Dakota	2,673
Oregon	29,488
South Carolina	36,998
South Dakota	4,421
Vermont	8,779
Washington	51,440

Total Number on Probation and Parole* 430,925
Percentage of All State Probationers/Parolees* 14.9%

II. Federal Decisions

A) Circuits Applying the Exclusionary Rule

CIRCUIT	DECISION
***2nd U.S. Cir.	*United States v. Rea*, 678 F.2d 382 (2d Cir. 1982)
4th U.S. Cir.	*United States v. Workman*, 585 F.2d 1205 (4th Cir. 1978)

B) Circuits Declining to Apply the Exclusionary Rule

CIRCUIT	DECISION
**3rd U.S. Cir.	*United States v. Bazzano*, 712 F.2d 826 (3rd Cir. 1983)
5th U.S. Cir.	*United States v. Montez*, 952 F.2d 854 (5th Cir. 1992)
6th U.S. Cir.	*United States v. Farmer*, 512 F.2d 160 (6th Cir. 1975)
7th U.S. Cir.	*United States v. Hill*, 447 F.2d 817 (7th Cir. 1971)
8th U.S. Cir.	*United States v. Frederickson*, 581 F.2d 711 (8th Cir. 1978)
**9th U.S. Cir.	*United States v. Winsett*, 518 F.2d 51 (9th Cir. 1975)
**10th U.S. Cir.	*United States v. Finney*, 897 F.2d 1047 (10th Cir. 1990)

C) Circuits That Have Not Decided the Issue

CIRCUIT

1st U.S. Cir.

11th U.S. Cir.

District of Columbia Cir.

Key

*As of January 1, 1997, as reported in the *Corrections Yearbook* (1997)

**Recognizes, but does not answer, the question of the relevance of knowledge of the probationer's/parolee's status

***Recognizes that the rule is generally not applicable, but applies the rule based on knowledge of the probationer's status.